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September 29, 1993

RECEIVED OF COUNSEL  
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SEP 29 1993 FAX: (202) 686-8282

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

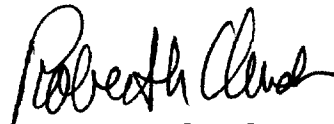
Re: KMPX(TV), Decatur, Texas

Dear Mr. Caton:

Transmitted herewith, on behalf of Word of God Fellowship, Inc., permittee of television Station KMPX, Decatur, Texas, are an original and four (4) copies of its Petition for Rulemaking to include Decatur, Texas, in the Dallas-Fort Worth, Texas Television Market.

Should further information be desired in connection with this matter, please communicate with this office.

Very truly yours,



Robert L. Olender  
Counsel for  
WORD OF GOD FELLOWSHIP, INC.

RLO:bpt  
Enclosures  
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SEP 29 1993

Before the  
Federal Communications Commission  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of ) MM Docket No. 93-  
 )  
Request by Word of God Fellowship, Inc. ) RM  
to Amend Section 76.51 of the )  
Commission's Rules to include Decatur, )  
Texas in the Dallas-Fort Worth )  
Television Market )

To: The Commission

**PETITION FOR RULEMAKING**

Word of God Fellowship, Inc. ("WOGFI"), permittee of Television Station KMPX, Decatur, Texas, by its counsel, hereby submits its Petition for Rulemaking to include Decatur, Texas in the Dallas-Fort Worth, Texas Television Market, ranked 12, pursuant to Commission Rule 76.51 (47 C.F.R. §76.51).<sup>1</sup>

**DISCUSSION**

The Commission has enunciated its position that stations meeting certain criteria would be eligible to change the designation of a television market. In its Cable Television Report and Order, 36 FCC 2d 143, 176 (1972) the Commission acknowledged the need to equalize the competitive status where

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<sup>1</sup>On September 24, WOGFI filed its application for license to cover its construction permit. This addresses the Commission's concern set forth in paragraph 6 of its Order (DA 93-920) released July 28, 1993, denying KMPX' May 20, 1993 Petition for Rulemaking on the basis that KMPX was an unbuilt station. The Commission argued that there can be no direct genuine competition with other area stations until the station is on the air. Since KMPX has now constructed and filed a license application, these assertions no longer form a basis for denial and it now allows the Commission to re-evaluate the Dallas-Fort Worth market consistent with the reasons set forth herein.

stations are in economic competition. KMPX is in urgent need of economic parity with the other Dallas-Fort Worth Television stations. If Decatur is made a part of this market, cable systems in the vicinity of Dallas and Fort Worth will have an opportunity to carry KMPX without concern for adverse financial implications because of copyright obligations. Moreover, KMPX is in competition with other market stations for portions of its programming, and is in need of the same historic and prospective consideration that the Commission has and will extend to stations in similar positions.<sup>2</sup>

In evaluating requests for hyphenation of a market, the Commission has considered some or all of the following factors as relevant to its examination:<sup>3</sup>

1. The distance between the proposed community and the existing designated communities.
2. Whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area.
3. The presence of a clear showing of a particularized need by the station requesting the change of market designation.
4. An indication of benefit to the public from the proposed change.

In addition, the Commission in its Report and Order released

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<sup>2</sup>See request by TV 14, Inc. to include Rome, Georgia in the Atlanta, Georgia Television Market (RM-8016).

<sup>3</sup>See Major Television Markets (Fresno, California) 57 RR 2d 1122 (1985).

March 29, 1993 (MM Docket No. 92-259) indicated that it expects to receive evidence that demonstrates commonality between the proposed community to be added to a market designation and the market as a whole. A review of the following significant facts show that there is ample commonality between Decatur and the Dallas-Fort Worth market:

1. Decatur is in the Dallas-Fort Worth ADI.
2. Decatur is in Wise County, which is not only one of the 33 counties in the ADI, but even more important is the fact that Wise County is one of the 11 counties that make up the Metro Survey Area according to Arbitron.
3. Wise County is one of the eleven counties that make up the Metropolitan Statistical Area according to the U.S. Census Bureau.
4. Wise County is one of the eleven counties that make up the Dallas-Fort Worth "Metroplex".
5. Wise County shares a common border with Tarrant County where Fort Worth is located.
6. The Dallas-Fort Worth television stations have significantly viewed status in Wise County.
7. There are also common cultural, social and economic interests between the residents in these areas.

Thus, there is clearly commonality between Decatur and Dallas/Fort Worth to warrant the expansion of this hyphenated market to include Decatur.

The Commission has defined a hyphenated television market as one characterized by more than one major population center supporting all stations in the market but with competing

stations licensed to different cities within the market area. As is evident herein, KMPX is a part of the Dallas-Fort Worth market, and is competing with stations licensed to these cities.

Affixed hereto, as Attachment A, is a map prepared by WOGFI's engineer, David Thompson, delineating the various mileages between the affected communities in this market. The distance between Decatur to Fort Worth is 36 miles, computed by coordinate to coordinate, and 28 miles, computed by city limit to city limit. The distance between Decatur to Dallas is 52 miles, computed by coordinate to coordinate, and 39 miles, computed by city limit to city limit. <sup>4</sup> It should be further noted that KMPX's tower is in the Dallas city limits and thus in reality, it cannot be considered a distant signal.

Perhaps of equal, if not greater significance, is the fact that KMPX puts a city grade coverage over both Dallas and Fort Worth, surpassing the Grade B criteria which the Commission considers as determinative. (See Attachment B, which is a map prepared by WOGFI's engineer, David Thompson.)

WOGFI has a particularized need for requesting the change of market designation. Because of non-duplication and syndicated exclusivity, WOGFI can't buy programs for just

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<sup>4</sup>Also, as a point of comparison, in the Rome, Georgia case approved by the Commission, (infra, footnote 1) the distance between Rome to Atlanta was 58 miles, greater than the present proposal. In addition in renaming the Columbus, Ohio, market to include Chillicothe, the distance between Chillicothe and Columbus was 50 miles. See, Report and Order, infra, para. 50.

Decatur, because it places more than a Grade B signal over Dallas/Fort Worth. Therefore, syndicators will only sell WOGFI programs that haven't been bought in Dallas/Fort Worth and, if they do, they will charge Dallas/Fort Worth prices. Consequently, since WOGFI can't buy programs based on a small market pricing, the only way that KMPX can compete is to be placed in the same parity as the Dallas/Fort Worth stations.

Furthermore, WOGFI cannot pay Dallas/Fort Worth prices for programs and also be required to pay distant signal copyright fees. If KMPX is considered a distant signal under the new must-carry laws, the cable systems will not be obligated to carry KMPX unless WOGFI indemnifies the cable system for the added copyright fees.<sup>5</sup>

With regard to the last criteria, which is the public interest consideration, the proposed change will benefit the public since it will enable KMPX to achieve viability. If KMPX is not permitted to effectively compete in the Dallas/Fort Worth market place, it will not survive. KMPX will be the first local television service for Decatur and thus it will provide that community with a vehicle of local expression. The Commission can take official notice of the financial circumstances facing a small market UHF television station such as KMPX. That is particularly true where the station is a religious/family station, seeking to provide wholesome programming to its viewers. If KMPX is shut out by

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<sup>5</sup>See, Report and Order, *infra*, par. 114.


unreasonable copyright obligations, then the public will lose out this new service.

ACCORDINGLY, it is submitted that WOGFI has, beyond peradventure, established a clear case in equity and law for inclusion in the Dallas-Fort Worth market so that it will become the Dallas-Fort Worth-Decatur market.<sup>6</sup>

Respectfully submitted,

WORD OF GOD FELLOWSHIP, INC.

By:

  
Robert L. Olender

Its Counsel

**BARAFF, KOERNER, OLENDER  
& HOCHBERG, P.C.  
5335 Wisconsin Avenue, N.W.  
Suite 300  
Washington, D.C. 20015  
(202) 686-3200**

**September 29, 1993**

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<sup>6</sup>Word of God Fellowship is withdrawing its pending Petition for Reconsideration to change KMPX(TV)'s proposed community of license to Plano, Texas, thus removing the objections set forth in paragraph 7 of the Commission's Order. (Infra footnote 1). (Attached hereto as Attachment C)

**ATTACHMENT A**

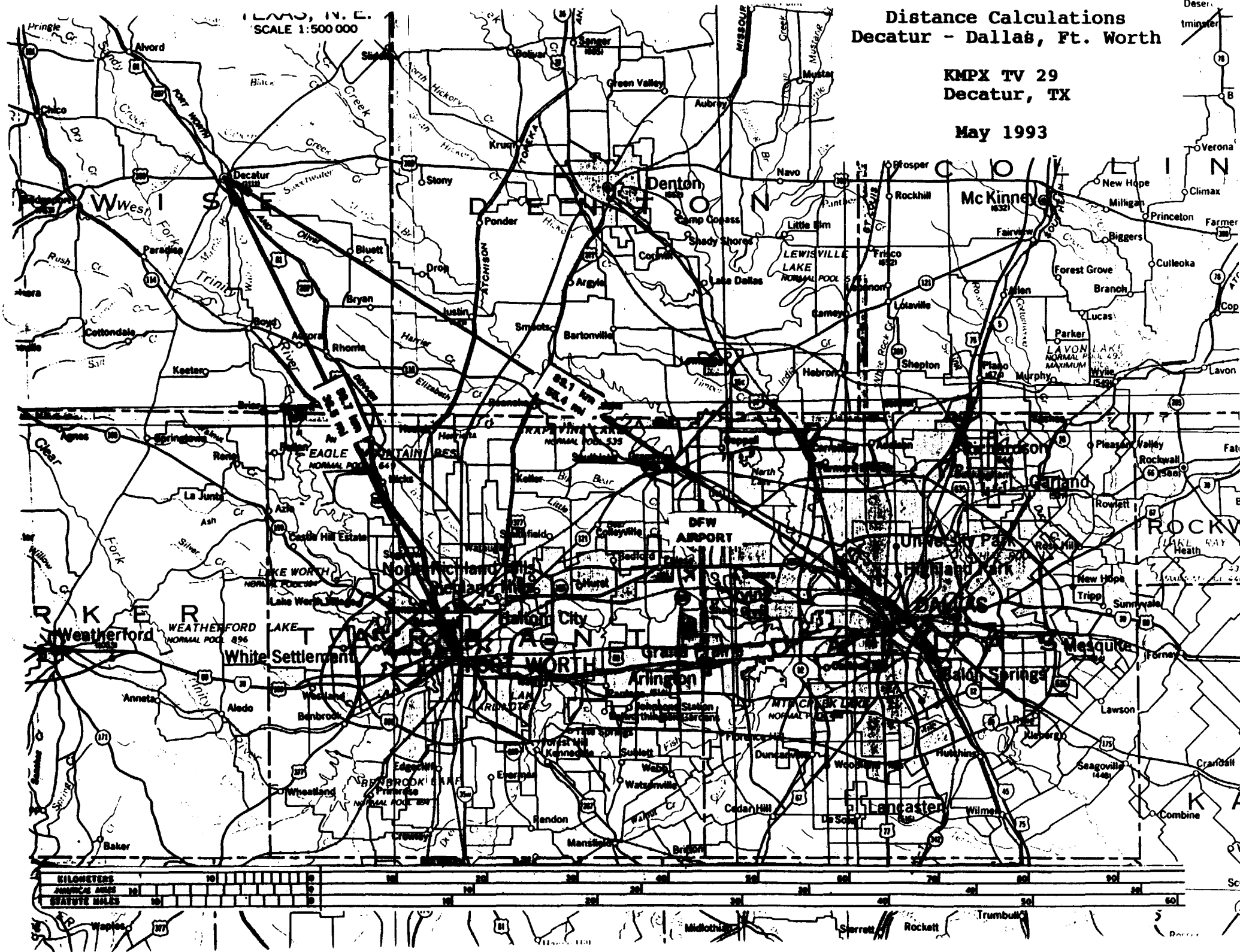


TEXAS, N.E.  
SCALE 1:500 000

# Distance Calculations Decatur - Dallas, Ft. Worth

KMPX TV 29  
Decatur, TX

May 1993



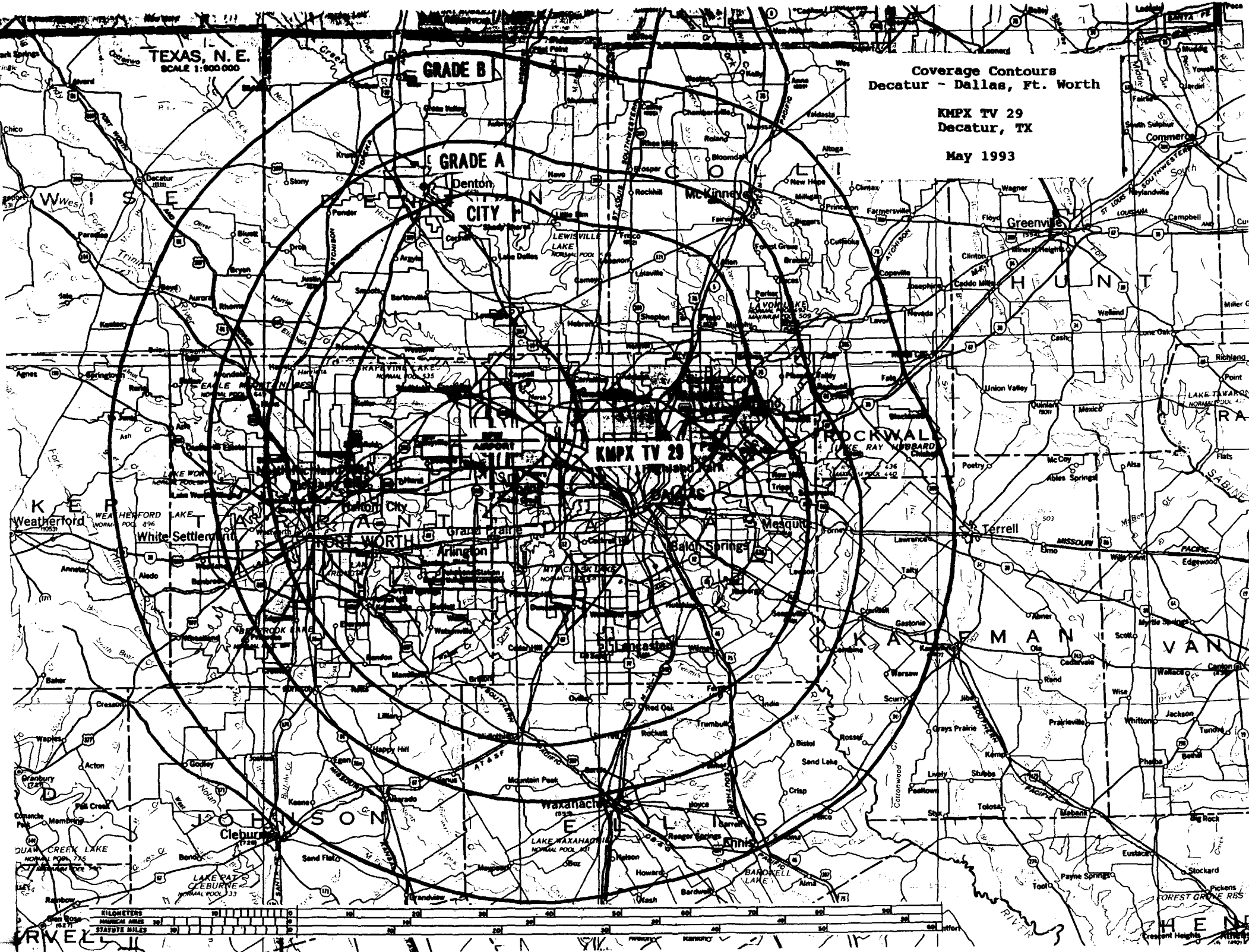
**ATTACHMENT B**

TEXAS, N. E.  
SCALE 1:500,000

Coverage Contours  
Decatur - Dallas, Ft. Worth

KMPX TV 29  
Decatur, TX

May 1993



**ATTACHMENT C**

**BARAFF, KOERNER, OLENDER & HOCHBERG, P. C.**

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WASHINGTON, D. C. 20015-2003

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OF COUNSEL  
ROBERT BENNETT LUBIC

FAX: (202) 686-8282

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: KMPX, Decatur, Texas

Dear Mr. Caton:

You are hereby advised on behalf of Word of God Fellowship, Inc., permittee of Station KMPX(TV), Decatur, Texas, that it hereby wishes to withdraw its Petition for Reconsideration filed November 6, 1989, requesting a change of community of license from Decatur to Plano, Texas.

Should further information be desired in connection with this matter, please communicate with this office.

Very truly yours,



Robert L. Olender  
Counsel for  
WORD OF GOD FELLOWSHIP, INC.

RLO:bpt

Enclosure

cc: Ms. Vicky McCauley (w/enclosure via hand delivery FCC)  
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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In The Matter of	)	
	)	
Amendment of Section 73.606(b)	)	MM Docket No.
Table of Allotments,	)	RM-
Television Broadcast Stations	)	
(Decatur and Plano, Texas)	)	

To: Chief, Mass Media Bureau

**REQUEST FOR WITHDRAWAL**

Word of God Fellowship, Inc. ("Word of God"), permittee of Station KMPX(TV), Channel 29, Decatur, Texas, through counsel, herein withdraws its Petition for Reconsideration filed November 6, 1989, of the October 4, 1989 Opinion Letter of the Mass Media Bureau returning its request for change of community of license from Decatur to Plano, Texas.

Word of God filed a rulemaking to include Decatur, Texas in the Dallas-Fort Worth, Texas Television Market which was denied by a decision of the Chief, Mass Media Bureau released July 28, 1993 (DA-93-920) on the basis that this pending request to change the community of license to Plano, Texas prevented consideration of the rulemaking request to change the designation of the Dallas-Fort Worth, Texas Television Market.<sup>1</sup>

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<sup>1</sup>Word of God is refiling that rulemaking request for further consideration.

Accordingly, in order to provide relief as expeditiously as possible, Word of God is withdrawing its conflicting Petition for Reconsideration.

Respectfully submitted,

WORD OF GOD FELLOWSHIP, INC.

By:



Robert L. Olender  
Its Attorney

**BARAFF, KOERNER, OLENDER  
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**September 29, 1993**

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